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Attorneys for Plaintiff  
BARRY HONIG

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

BARRY HONIG, an individual,  
  
Plaintiff,  
  
v.  
  
JOSEPH NOEL, an individual,  
  
Defendant.

CASE NO. **CV 11 6706**

**COMPLAINT FOR:**

- 1. BREACH OF CONTRACT;  
AND**
- 2. MONEY LENT.**

EAST47613256.2



1 Plaintiff BARRY HONIG ("Plaintiff Honig") alleges the following:

2 **THE PARTIES**

3 1. Plaintiff BARRY HONIG is an individual, who at all times relevant, is  
4 and was a resident of Palm Beach County, Florida and a Florida citizen.

5 2. Defendant JOSEPH NOEL, is an individual, who at all times relevant,  
6 is and was a resident of San Francisco, California and a California citizen.

7 **JURISDICTION AND VENUE**

8 3. This Court has Diversity Jurisdiction pursuant to 28 U.S.C. § 1332, as  
9 this civil action is between citizens of different states, and the matter in controversy  
10 exceeds, exclusive of costs and interest, Seventy-Five Thousand Dollars  
11 (\$75,000.00).

12 4. Venue in this judicial district is proper pursuant to 28 U.S.C. § 1391,  
13 subdivisions (a)(1) and (2) because Defendant Noel is a resident of this judicial  
14 district and subject to personal jurisdiction in this judicial district and a substantial  
15 part of the events or omissions giving rise to the claim occurred in this judicial  
16 district.

17 **GENERAL ALLEGATIONS**

18 5. On or about August 24, 2011, Plaintiff Honig lent Defendant Noel  
19 \$150,000. This loan was evidenced by a written Promissory Note dated August 24,  
20 2011 in the principal face amount of One Hundred Fifty Thousand Dollars  
21 (\$150,000.00) ("Promissory Note") executed by Defendant Noel. A true and  
22 correct copy of the Promissory Note is attached hereto as Exhibit "A" and is  
23 incorporated by reference herein.

24 6. Under the terms of the Promissory Note, Defendant Noel was to pay  
25 back to Plaintiff Honig the \$150,000 lent in three equal installments of Fifty  
26 Thousand Dollars (\$50,000.00) each. These payments were due on September 24,  
27 2011, October 24, 2011 and November 24, 2011, respectively.



7. Defendant Noel failed to make any of the payments to Plaintiff Honig as required by the Promissory Note.

**FIRST CAUSE OF ACTION**

**(Breach of Contract – Against Defendant Noel)**

8. Plaintiff Honig incorporates by reference the allegations contained in Paragraphs 1 through 7 as if fully set forth herein.

9. On or about August 24, 2011, Plaintiff Honig and Defendant Noel executed the Promissory Note whereby Plaintiff Honig agreed to lend Defendant Noel One Hundred Fifty Thousand Dollars (\$150,000.00) and Defendant Noel agreed to pay back Plaintiff Honig in three equal installments of Fifty Thousand Dollars (\$50,000.00) on September 24, 2011, October 24, 2011 and November 24, 2011.

10. Pursuant to the terms of the Promissory Note, Plaintiff Honig lent Defendant Noel One Hundred Fifty Thousand Dollars (\$150,000.00) on or about August 24, 2011, and performed all acts, services and conditions of the Promissory Note.

11. Defendant Noel failed to make any of the three required Fifty Thousand Dollar (\$50,000.00) payments due on September 24, 2011, October 24, 2011 and November 24, 2011. In fact, Defendant Noel has not paid Plaintiff Honig any funds owed under the Promissory Note.

12. Defendant Noel breached the Promissory Note by failing to pay Plaintiff Honig any amount. There is now due and owing to Plaintiff Honig the sum of One Hundred Fifty Thousand Dollars (\$150,000.00) for the principal due under the Promissory Note.

WHEREFORE, Plaintiff Honig demands judgment as hereafter set forth.



**SECOND CAUSE OF ACTION**

**(Money Lent – Against Defendant Noel)**

13. Plaintiff Honig incorporates by reference the allegations contained in Paragraphs 1 through 7 as if fully set forth herein

14. On or about August 24, 2011, Plaintiff Honig agreed to and did lend Defendant Noel One Hundred Fifty Thousand Dollars (\$150,000.00). In exchange, Defendant Noel agreed to re-pay the One Hundred Fifty Thousand Dollars (\$150,000.00) no later than November 24, 2011.

15. Defendant Noel failed to re-pay Plaintiff Honig in any amount, despite demand from Plaintiff Honig that he be paid. There is now due and unpaid from Defendant Noel the sum of One Hundred Fifty Thousand Dollars (\$150,000.00).

WHEREFORE, Plaintiff Honig demands judgment as hereafter set forth.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff Honig prays for judgment against Defendant Noel as follows:

1. For damages according to proof at trial;
2. For costs of suit;
3. For attorneys' fees, to the extent allowed by law; and
4. For such other and further relief as the Court may deem just and proper.

Dated: December 28, 2011

DLA PIPER LLP (US)

By: 

EDWARD D. TOTINO  
MONICA N. DOURNAEE  
Attorneys for Plaintiff  
BARRY HONIG



# EXHIBIT “A”



## PROMISSORY NOTE

<b>AMOUNT:</b> \$150,000.00	<b>DATE:</b> August 24, 2011
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For value received, the terms of this Promissory Note (the "Note") dictate that the undersigned, Joseph Noel (the "Borrower"), maintaining an address at 300 Beale Street, Suite 613, San Francisco, CA 94105 (the Borrower's address) promises to pay to the order of Barry Honig (the "Lender"), who's address is 4400 Biscayne Blvd., Suite 850, Miami, FL 33137 (Lender's address), the principal sum of One-Hundred, Fifty Thousand Dollars (\$150,000.00) in U.S. currency (the "Principal Amount").

### Terms of Repayment:

All or any part of the Principal may be prepaid at any time and from time to time without penalty. The Principal Amount is to be paid back in three equal installments of Fifty Thousand dollars (\$50,000.00) on the thirty (30), sixty (60) and ninety (90) day anniversary from the execution of this Note.

### Interest:

Interest shall accrue on the Principal Amount in the amount of 18.0% per annum, with a minimum interest payment amount of \$500.00.

### Default:

In the event the Borrower shall (i) fail to pay this Note within ninety days following the date of this Note (ii) commence any case, proceeding or other action under any existing or future law of any jurisdiction, domestic or foreign, relating to bankruptcy, insolvency, reorganization, or relief of debtors, seeking to have an order for relief entered, or seeking to be adjudicated as bankrupt or insolvent, or seeking reorganization, arrangement, adjustment, winding-up, liquidation, dissolution, composition or other relief with respect to his debts, or seeking appointment of a receiver, custodian, trustee or other similar official for all or any substantial part of his assets, (iii) there shall be commenced against the Borrower, any case, proceeding or other action which results in the entry of an order for relief or any such adjudication or appointment remains undismissed, undischarged or unbonded for a period of 30 days, (iv) there shall be commenced against the Borrower, any case, proceeding or other action seeking issuance of a warrant of attachment, execution, restraint or similar process against all or any substantial part of its assets which results in the entry of an order for any such relief which shall not have been vacated, discharged, or stayed or bonded pending appeal within 10 days from the entry thereof, (v) the Borrower shall make an assignment for the benefit of creditors, (vi) the Borrower shall be unable to, or shall admit in writing the inability to, pay its debts as they become due; or the Borrower shall take any action indicating its consent to, approval of, or acquiescence in, or in furtherance of, any of the foregoing, then, or any time thereafter during the continuance of any of such events, the entire unpaid balance of this Note then outstanding, together with accrued interest thereon, if any, shall be and become immediately due and payable without notice of demand by the Lender.



**Wire Transfer Instructions for Principal Amount:**

The Borrower's account information is listed below. The Principal Amount should be transmitted to Borrower as per the following account information:

Bank: Bank of America

Account holder: Emerging Growth Research, LLC

Routing number: 026 009 953

Account number: 501009452789

**Other:** All payments hereunder shall be made to such address as may from time to time be designated by any Lender and must be paid in U.S. currency.

Borrower and all other parties to this note, whether as endorsers, guarantors or sureties, agree to remain fully bound until this note shall be paid in full and waive demand, presentment and protest and all notices hereto. Borrower further agrees to remain bound to this note notwithstanding any extension, modification, waiver or other indulgence, failure, discharge or release of any obligation hereunder. This Note may not be changed or terminated orally, but only with an agreement in writing, signed by the parties against whom enforcement of any waiver, change, modification, or discharge is sought with such agreement being effective and binding only upon attachment hereto. The Lender's failure to exercise any right or option hereunder does not constitute a waiver of any future right or option.

This Note and the various rights and obligations arising hereunder shall inure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns. Neither this Note nor any of the rights, interests or obligations hereunder shall be transferred or assigned by the parties hereto without the prior written consent of the other party. Any transfer or assignment of any of the rights, interests or obligations hereunder in violation of the terms hereof shall be void and of no force or effect.

This Note and the rights and obligations of the Lender and of the undersigned shall be governed and construed in accordance with the laws of the State of Florida.

In the event that the Lender files any action to collect this Note, he shall be entitled to his reasonable attorneys' fees and expenses.



This Promissory Note between the Borrower and Lender is signed and dated as per below.

  
The Borrower

8-24-11  
Date:

  
The Lender

8-24-11  
Date: